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Reply to:  
Consumer Advocate and Protection Division  
Post Office Box 20207  
Nashville, TN 37202

December 5, 2003

Honorable Deborah Taylor Tate  
Chairman  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, Tennessee 37243

IN RE: PETITION OF CHATTANOOGA GAS CO., NASHVILLE GAS CO., A  
DIVISION OF PIEDMONT NATURAL GAS CO., INC. AND UNITED CITIES GAS  
CO., A DIVISION OF ATMOS ENERGY CORP. FOR A DECLARATORY RULING  
REGARDING THE COLLECTIBILITY OF THE GAS COST PORTION OF  
UNCOLLECTABLE ACCOUNTS UNDER THE PURCHASE GAS ADJUSTMENT  
("PGA") RULES. DOCKET No. 03-00209

Dear Chairman Tate:

Enclosed is an original and thirteen copies of the Consumer Advocate and Protection Division's Response To Petitioner's Statement of Material Facts in Support of Petitioners' Motion for Summary Judgment in regards to Docket No. 03-00209. Kindly file same in this docket. Copies are being sent to all parties of record. If you have any questions, kindly contact me at (615) 532-3382. Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Shilina Chatterjee".  
SHILINA CHATTERJEE  
Assistant Attorney General

cc: All Parties of Record

#66649

RECEIVED  
DECEMBER 5 PM 4:23  
T.R.A. DOCKET ROOM

**IN THE TENNESSEE REGULATORY AUTHORITY  
NASHVILLE, TENNESSEE**

<b>IN RE:</b>	<b>) DOCKET NO. 03-00209</b>
	<b>)</b>
<b>PETITION OF CHATTANOOGA GAS</b>	<b>)</b>
<b>CO., NASHVILLE GAS CO., A DIVISION</b>	<b>)</b>
<b>OF PIEDMONT NATURAL GAS CO.,</b>	<b>)</b>
<b>INC. AND UNITED CITIES GAS</b>	<b>)</b>
<b>COMPANY, A DIVISION OF ATMOS</b>	<b>)</b>
<b>ENERGY CORP. FOR A</b>	<b>)</b>
<b>DECLARATORY RULING REGARDING</b>	<b>)</b>
<b>THE COLLECTIBILITY OF THE GAS</b>	<b>)</b>
<b>COST PORTION OF UNCOLLECTIBLE</b>	<b>)</b>
<b>ACCOUNTS UNDER THE PURCHASE</b>	<b>)</b>
<b>GAS ADJUSTMENT ("PGA") RULES.</b>	<b>)</b>

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**RESPONSE TO PETITIONERS' STATEMENT OF UNDISPUTED FACTS IN  
SUPPORT OF PETITIONERS' MOTION FOR SUMMARY JUDGMENT**

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COMES NOW the Tennessee Attorney General, through the Consumer Advocate & Protection Division ("Consumer Advocate") and hereby responds to the Petitioners' Statement of Undisputed Facts in Support of Petitioners' Motion for Summary Judgment filed by Chattanooga Gas Company, Nashville Gas Company and Atmos Energy Corp (collectively referred to as "Petitioners") in the above-captioned matter before the Tennessee Regulatory Authority ("TRA"). Although the TRA has not strictly adopted Rule 56.03 of the Tennessee Rules of Procedure<sup>1</sup> the Consumer Advocate submits this Response in an attempt to clarify the issues of law in this

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<sup>1</sup> Order of March 31, 2003, TRA Docket 01-00704: *AUDIT OF UNITED CITIES GAS COMPANY'S INCENTIVE PLAN ACCOUNT (IPA) FOR THE PERIOD OF APRIL 1, 2000, THROUGH MARCH 31, 2001*

proceeding.

1. The Petitioners seek to recover Gas Costs included in the uncollectible accounts through the Purchase Gas Adjustment (PGA) Rules. See Petition for a Declaratory Ruling.

RESPONSE:

The Consumer Advocate does not dispute that the Petitioners' Joint Petition requests a declaratory order seeking such relief.

2. The "Purchased Gas Adjustment (PGA) Rules are intended to permit the gas company to recover, in timely fashion, the total cost of gas purchased for delivery to its customers and to assure that the company does not over-collect or under-collect Gas Costs from its customers". TRA Rule 1220-4-7-.02(1)

RESPONSE:

The Consumer Advocate does not dispute that the Petitioners have correctly quoted TRA Rule 1220-4-7-.02(1).

3. "Gas Costs" shall mean the total delivered cost of gas paid or to be paid to Suppliers, including, but not limited to, all commodity/gas charges, demand charges, peaking charges, surcharges, emergency gas purchases, over-run charges, capacity charges, standby charges, gas inventory charges, minimum bill charges, take-or-pay charges and take and pay charges, storage charges, service fees and transportation charges and any other similar charges that are paid by the Company to its gas suppliers in connection with purchase, storage or transportation of gas for the Company's system supply." TRA Rule 1220-4-7-.01(1)

RESPONSE:

The Consumer Advocate does not dispute that the Petitioners have correctly quoted TRA

Rule 1220-4-7-.02(1).

4. Currently, there are two components to Petitioners' rates: (i) gas costs that are recovered through the PGA; and (ii) all other costs (i.e. costs of distribution from the city gate to the customer) which are recovered through the base rates that are set in a rate case. Petitioners are currently allowed a certain amount in their base rates for uncollectible accounts. This reserve for uncollectible includes the gas portion and the non-gas portion of customer charges. Currently, if actual uncollectible accounts exceed the amount in the reserve in base rates, the Petitioners must absorb the loss. Likewise, if the actual uncollected account is less than the amount in its reserve in base rates, then the Petitioners are allowed to keep the excess. See Petition for Declaratory Ruling.

RESPONSE:

The Consumer Advocate does not dispute the general proposition contained in the statement, however the Petitioners imply that there is some separation of Uncollectible Accounts expense into two components. There is no such separation in the accounting system. See Affidavit of Daniel W. McCormac in Support of Motion for Summary Judgment, p. 12, lines 239-241.

5. In TRA Docket 01-00802, the TRA allowed the Petitioners to recover the Gas Costs portion of uncollectible accounts for the fiscal period ending in 2001 through the PGA Rules to the extent such costs exceeded the bad debt reserve included in base rates, without a rulemaking proceeding or a waiver of the PGA Rule. See Order attached to CAPD's Memorandum in Support for Summary Judgment, fn.3.

RESPONSE:

The Consumer Advocate does not dispute this general statement, but states that the recovery allowed under Docket 01-00802 was an estimate. See Order in Docket 01-00802, January 29, 2002. p.4

The Consumer Advocate also states that the Order in Docket 01-00802 explicitly provided that it was a deferral and was to be a one-time temporary measure to counter extraordinary circumstances and was not to reflect a change or alteration of the long standing policy and practice of the TRA. See Order in Docket 01-00802, January 29, 2002. p.5-6.

RESPECTFULLY SUBMITTED,

  
SHILINA B. CHATTERJEE, B.P.R. #20689  
Assistant Attorney General  
(615) 532-3382

Dated: December 5, 2003

## CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served via facsimile and/or hand delivery on December 5, 2003.


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